

OCEAN DUMPING AUTHORIZATION—FISCAL YEAR 1981

APRIL 22, 1980.—Ordered to be printed

Mr. MURPHY of New York, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 6616]

(Including cost estimate of the Congressional Budget Office)

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 6616) to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1981, and for other purposes having considered the same, reports favorably thereon with amendments and recommendations that the bill as amended do pass.

The amendments are as follows:

On page 2 line 2 strike "\$1,039,000" and insert in lieu thereof "\$3,039,000".

On page 3 line 16, strike "and".

On page 3 line 17 strike "1981." and insert in lieu thereof "1981, not to exceed \$12,000,000 for fiscal year 1982, and not to exceed \$13,000,000 for fiscal year 1983."

On page 8 lines 7 and 8 strike "subsection (b)," and insert in lieu thereof "subsections (b) and (c)."

On page 9 following line 14 insert a new subsection (c) to read as follows:

(c) After December 31, 1981, the Administrator may issue emergency permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines that there has been demonstrated to exist an emergency requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, "emergency" refers to situations requiring action with a marked degree of urgency.

On page 9 line 15 strike "(c)" and insert in lieu thereof "(d)".

PURPOSE OF THE LEGISLATION

H.R. 6616 would amend section 111 of Title I, section 204 of Title II, and section 304 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to extend the authority to appropriate funds not to exceed the following amounts (in millions):

Fiscal year 1981:	
Title I.....	\$3.039
Title II.....	10.396
Title III.....	2.25
Fiscal year 1982: Title II.....	12.0
Fiscal year 1983: Title II.....	18.0

In addition, H.R. 2519 would transfer the authority to conduct research on alternative waste disposal methods to ocean dumping from the Department of Commerce to the Environmental Protection Agency.

In cases where a Federal agency desires to ocean dump material from a foreign location, the bill would allow that agency to apply for a permit to the foreign government involved, provided that the Environmental Protection Agency (EPA) concurs with the proposed agency action.

Further, the bill would amend Public Law 95-153 to require the termination on or before December 31, 1981, of the ocean dumping of industrial wastes which are harmful to the marine environment. The bill would allow the issuance of limited permits after the 1981 deadline for ocean dumping of industrial waste which is necessary to avert a public health emergency or to conduct research on new technology or to determine whether the ocean dumping of a new or little understood substance will in fact be harmful. The bill would also amend existing law to consider the waters of Long Island Sound as ocean waters for the purposes of ocean dumping regulation under Title I of the Act.

Finally, H.R. 6616 would amend Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 to require the Secretary of Commerce to identify the activities which are to be regulated prior to the designation of a marine sanctuary, to allow popularly elected governors of territories the same rights as state governors in the marine sanctuary designation process, and to provide a method for Congressional disapproval of part or all of a proposed marine sanctuary designation.

COMMITTEE ACTIONS

H.R. 6616 was introduced on February 26, 1980 by Mr. Murphy of New York, Mr. McCloskey, Mr. Fuqua, Mr. Studds, Mr. Pritchard, Mr. Forsythe, Mr. Ambro, Mr. Walker, Mr. Hughes, Mr. Bauman, and Mr. Blanchard. Several other Members became cosponsors subsequently.

The bill was referred jointly to the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology. Within the Committee on Merchant Marine and Fisheries, H.R. 6616 was referred jointly to the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

The Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment held a joint public hearing on the subject matter contained in H.R. 6616 on February 20, 1980. Witnesses from the Environmental Protection Agency, National Oceanic and Atmospheric Administration, New York City, five environmental organizations, one oil company, and one fisheries organization were heard. Additional statements from the public were received and included in the record.

On March 6, 1980 the two Subcommittees met in joint open session and ordered H.R. 6616 reported to the full Committee on Merchant Marine and Fisheries with two amendments by unanimous voice vote, with a quorum present. The first amendment, offered by Mr. Studds, amended the authorization figure for EPA under Title I of the Act to read \$3.039 million. The second amendment, also offered by Mr. Studds, added authorizations of not to exceed \$12 million for fiscal year 1982 and not to exceed \$13 million for fiscal year 1983 for research under Title II of the Act.

On March 19, 1980 the Committee on Merchant Marine and Fisheries met in open session with a quorum present. An amendment offered by Mr. Studds to allow issuance of emergency permits to allow ocean dumping of industrial wastes in public health emergency situations was adopted by voice vote.

In other actions during the markup, an amendment was offered to direct the Administrator of EPA to balance the impacts of ocean dumping of sewage sludge against those of land disposal and select the least harmful alternative, thus allowing an extension of the 1981 deadline if ocean dumping were found to be least harmful. Any permit issued under this modification, however, would have been reviewed annually and be subject to revocation. The intent of this amendment was to require the Administrator to take a broader approach to waste management by requiring a simultaneous evaluation of the consequences of both land and ocean disposal options. The amendment also would have required EPA to provide technical and financial assistance to municipalities in developing environmentally-sound long term disposal plans. During the mark-up, the proposal was amended to prohibit ocean dumping of sewage sludge beyond 1984. The original amendment, as amended by the 1984 deadline, was defeated by a vote of 11 to 25.

The Committee ordered H.R. 6616 reported to the House, as amended, by unanimous voice vote.

ACTIONS DURING 95TH CONGRESS

H.R. 10661 was introduced in the 95th Congress on January 31, 1978 by Mr. Murphy of New York and 21 other Members. The bill was referred jointly to the Committees on Merchant Marine and Fisheries, and Science and Technology. Both Committees held hearings and reported H.R. 10661 to the House with amendments.

On September 25, 1978 the House considered H.R. 10661 under suspension of the Rules, and passed it on a voice vote. The House-passed bill was ordered placed on the Senate calendar and remained there until sine die adjournment of the Congress because of a failure of several Senate Committees to resolve differences with respect to the bill.

As passed by the House, H.R. 10661 would have authorized \$6.8 million for fiscal year 1979, and \$7.8 million for fiscal year 1980 for Title I of the Act, \$7.5 million for fiscal year 1979 and \$9.0 million for fiscal year 1980 for Title II of the Act, and \$2.0 million for fiscal year 1979 and \$3.0 million for fiscal year 1980 for Title III of the Act. In addition, H.R. 10661 would have transferred the authority to conduct research on waste disposal alternatives to ocean dumping from the Department of Commerce to the Environmental Protection Agency and would have amended Public Law 95-153 to require the termination on or before December 31, 1981, of the ocean dumping of industrial wastes which are harmful to the marine environment. Finally, H.R. 10661 would have amended Title III of the Act to require the Secretary of Commerce to identify those activities which are to be regulated prior to the designation of a marine sanctuary.

PREVIOUS ACTIONS IN 96TH CONGRESS

H.R. 2519 was introduced on February 28, 1979, by Mr. Murphy of New York, and eight cosponsors. Eleven additional Members joined as cosponsors of the bill before it was ordered reported. H.R. 2519 as introduced was identical to H.R. 10661 which passed the House in the 95th Congress, but was not acted upon by the Senate. H.R. 2519 was jointly referred to the Committees on Merchant Marine and Fisheries and Science and Technology. Within the Committee on Merchant Marine and Fisheries, the bill was further referred jointly to the Subcommittees on Oceanography and Fisheries and Wildlife Conservation and the Environment.

On March 5, 1979, the two Subcommittees held a joint open hearing on H.R. 2519. On March 19, 1979, the Subcommittee on Oceanography and the Subcommittee on Fisheries and Wildlife Conservation and the Environment met in joint open session and ordered H.R. 2519 reported with amendments to the Full Committee on Merchant Marine and Fisheries by a unanimous voice vote.

On April 10, 1979, the Committee on Merchant Marine and Fisheries met in open session on H.R. 2519. By voice vote, H.R. 2519 was ordered reported to the House with a single amendment in the nature of a substitute, striking all after the enacting clause and inserting the text resulting from the Committee's deliberations. A complete description of the amendments adopted during the Joint Subcommittee and Full Committee markups is contained in House Report 96-112, Part 2.

After both the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology had reported H.R. 2519 to the House, the two committees reached agreement on a single text to be offered in lieu of the differing committee amendments to the bill. No further action on H.R. 2519 occurred during 1979. H.R. 2519 would have authorized funds for fiscal years 1979 and 1980. Because funds for those years have already been appropriated, the Committee is not seeking further action on H.R. 2519.

BACKGROUND AND NEED FOR THE LEGISLATION

In 1970 President Nixon requested that the newly created Council on Environmental Quality conduct a study on the effects of ocean dumping on the marine environment. In its report entitled "Ocean Dumping, A National Policy" published in October 1970, the Council

concluded that there was a "critical need for a national policy on ocean dumping."

In 1971, the Committee on Merchant Marine and Fisheries favorably reported H.R. 9727, the Marine Protection, Research, and Sanctuaries Act. The Act was signed into law on October 23, 1972. Since that time, all ocean dumping activities have come under the regulation of the Environmental Protection Agency (EPA) except for dredged material, which is regulated by the U.S. Army Corps of Engineers (COE) with the concurrence of EPA.

When the Act became effective on April 23, 1973, EPA established various categories of permits authorizing ocean-dumping activities. One such category, called an interim permit, was established to allow the ocean dumping of materials which did not comply with EPA's environmental criteria for acceptable ocean dumping. In its revised rules and regulations published in the Federal Register on January 11, 1977, EPA enunciated a policy to phase out all ocean dumping authorized under interim permits by December 31, 1981.

In 1977, the Committee on Merchant Marine and Fisheries favorably reported H.R. 4297 which codified in law (Public Law 95-153) EPA's December 31, 1981 deadline for the cessation of the ocean dumping of sewage sludge which is harmful to the marine environment. H.R. 6616 contains an amendment to Public Law 95-153 which would expand the purview of the 1981 deadline to include the phaseout of the ocean dumping of industrial waste which is harmful to the marine environment. The bill would allow issuance of limited permits after the 1981 deadline for ocean dumping of industrial waste in connection with public health emergencies and research, as recommended by EPA during hearings on the bill.

At the beginning of 1979, EPA had 26 outstanding interim permits to municipalities, authorizing ocean dumping of sewage sludge. The ocean dumping of sewage sludge was ended by 6 of those municipalities during 1979, and by 3 of them in the early months of 1980. Currently, 17 municipalities are ocean dumping sewage sludge under interim permits. In addition, EPA has 4 outstanding interim permits and 11 special permits authorizing the ocean dumping of industrial waste. One special and one interim permittee ceased ocean dumping in 1979. All interim permits, and most special permits, contain a specified phaseout schedule with specific dates by which the permittee must complete parts of its compliance schedule.

During 1979, EPA issued complaints against one sewage sludge dumper for noncompliance with its phase-out schedule. New York City has been granted a revision of its phase-out schedule. EPA has informed the Committee that it believes that all holders of interim permits except two will meet their phase-out schedules and end their ocean dumping of sewage sludge or industrial waste on or before the December 31, 1981 deadline. The two permittees who apparently will not meet their phase-out schedules are Bergen County, New Jersey, and Westchester County, New York. EPA has denied a new interim permit to Bergen County, and the County subsequently requested an adjudicatory hearing. At EPA's request suit has been brought against Westchester County by the Department of Justice.

In an effort to expedite the development and implementation of landbased alternatives to ocean dumping, the Committee has provided for the transfer of the authority to conduct research for the

development of land-based disposal alternatives from the National Oceanic and Atmospheric Administration (NOAA) to EPA. The Committee recognizes that EPA has established expertise in alternative waste disposal methods through the administration of the Federal Water Pollution Control Act of 1972 (FWPCA) as amended. The transfer of authority granted under section 203 was supported both by NOAA and EPA.

In addition to the assistance provided to the agency under title I of the MPRSA, the Committee recommends that EPA utilize funds appropriated under the construction grants program of Title II of the FWPCA to assist interim permit holders to develop and implement land-based alternatives to ocean dumping in time to meet the December 31, 1981, deadline.

Under the current wording of section 102 of the Marine Protection, Research, and Sanctuaries Act, a federal agency which has material to ocean dump from a location in a foreign country which is a party to the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (Ocean Dumping Convention) (to which the United States is also a party) must obtain its permit to do so from the Environmental Protection Agency. This procedure forces the EPA to make decisions affecting primarily the waters of other countries which are parties to a convention to which the U.S. has agreed. Although the EPA can consult officials of the country involved to ascertain its opinions of the proposed ocean dumping, EPA could legally approve the dumping even if it were opposed by the country involved. It would then be the responsibility of the affected country to confront the United States on the issue.

The Committee believes that it makes little sense for the Government of the United States to retain such authority over decisions which primarily affect other countries, particularly when those countries enforce ocean dumping regulations similar to our own by reason of their adherence to the Ocean Dumping Convention. Consequently, the bill amends section 102(e) to allow a federal agency which desires to ocean dump material from a location in a foreign country which is a party to the Ocean Dumping Convention, after obtaining the concurrence of the Administrator of the EPA, to apply directly to that foreign country for a permit. The Committee believes that the Administrator of the EPA should concur in such requests for concurrence from federal agencies only when it appears that the proposed ocean dumping will be consistent with the Ocean Dumping Convention and U.S. law, and the location of the proposed dumpsite is such that the dumping will have no significant adverse effect on the waters of the United States or on ocean living resources over which the United States exercises sovereign rights or exclusive management authority.

H.R. 6616 authorizes appropriation of not more than \$10.396 million for fiscal year 1981, not more than \$12 million for fiscal year 1982, and not more than \$13 million for fiscal year 1983 for the conduct of research mandated under Title II. The committee recognizes the need for NOAA to implement an aggressive program to monitor and assess the effects of ocean dumping on the marine environment. Although the ocean dumping of most sewage sludge and industrial waste is scheduled to be phased out by December 31, 1981, the ocean dumping of dredge spoil will not, and the study of the effects of all such pollution on the marine environment will provide valuable information and will help

making informed decisions regarding the future utilization and efficient development of our marine resources. A more thorough specification of the boundary line between harmless cost-effective waste assimilation in the marine environment and harmful ocean dumping would also be accomplished. In addition, such information will assist the nation's attempt to negotiate effective environmental guidelines in international treaties and agreements.

The authorization figure of \$10.396 million for fiscal year 1981 includes the Administration's authorization request (\$9.396 million), and additional funds for studies of the Hudson-Raritan estuary area, which is one of the most heavily polluted estuaries in the United States.

In recent years, two types of events have demonstrated the dangerous nature of the situation in the Hudson-Raritan estuary. During periods of extremely heavy rain, raw sewage sometimes reaches the waters of Long Island beaches, forcing them closed for health and sanitation reasons. The primary source of this raw sewage appears to be overflow from combined sewers which are not capable of handling the increased volume during heavy rains.

During the summer and fall of 1976, mass mortalities of shellfish occurred in a 100 mile-long corridor off the shore of New Jersey. A large area of water suffering from severe oxygen depletion and the formation of hydrogen sulfide killed about 69 percent of the offshore surf clam stocks of New Jersey and significant numbers of ocean quahogs, sea scallops, lobsters, and other species. Major contributing factors in the creation of this situation were unusual meteorological and hydrographic conditions and a huge bloom of phytoplankton, which would most likely not have become so large without the presence of vast amounts of organic nutrients such as phosphate from dredged spoil dumping, municipal wastewater discharges, stormwater and agricultural runoff, and other results of human activities.

The additional amount added by the Committee to this authorization would allow studies to be conducted to monitor and evaluate the human health and environmental effects of key pollutants in the Hudson-Raritan estuary, and develop information needed to evaluate the potential for rehabilitation of the estuary.

Included within the Administration's authorization request of \$9.396 million for fiscal year 1981 is \$1.482 million for ocean use planning and assessment activities. Studies to be conducted by the multidisciplinary staff of NOAA's Office of Ocean Resources Coordination and Assessment (ORCA) under this description include the following: completion of a strategic assessment of marine pollution problems in the Gulf of Mexico, including development of a simple pollution transport model with which to assess the relative contribution of land-based sources to pollutant concentrations in the Gulf of Mexico versus the contribution from offshore activities such as oil and gas development and marine transportation; initiation of a strategic assessment of ocean use conflicts due to projected oil and gas activities in and through the Beaufort, Chukchi, and Bering Seas; continued development and updating of the national pollution discharge inventory for land-based pollution sources in coastal counties; and completion of several marine transportation risk analyses, including development of a model for estimating pollution discharges from vessels in U.S. waters. The commit-

tee believes all of these research projects are important and therefore authorized the full amount of the Administration request.

Although it was created by law in 1972, the Marine Sanctuaries program did not receive any appropriated funds until fiscal year 1979. The program operated on reprogrammed funds from other NOAA programs in fiscal years 1977 and 1978. Since enactment of the legislation, two marine sanctuaries have been actually designated: the area surrounding the U.S.S. *Monitor* off North Carolina, and 100 square miles of coral reef off Key Largo, Fla.

The marine sanctuaries program received increased attention after President Carter delivered his Message on the Environment on May 23, 1977. In his address, the President indicated that his Administration would place a high priority on identifying potential marine sanctuary sites in areas where development appears to be imminent, particularly in sensitive areas scheduled for Outer Continental Shelf oil and gas leasing sales.

In response to this directive, NOAA asked other Federal agencies, States and the public to identify sites for review as possible marine sanctuaries. More than 100 different areas were suggested for evaluation. In 1978, NOAA began considering the first group of sites from among these recommendations for marine sanctuary status.

On February 5, 1979, NOAA published in the Federal Register a proposed complete revision of its regulations which specify the scope and objectives of the program, the criteria for evaluation and designation of areas as marine sanctuaries, and the procedures for the administration of the program. The revised final regulations for the program were published effective July 31, 1979.

Over the past year, NOAA has continued work toward the designation of additional marine sanctuaries and the management of the two existing sanctuaries. Seven sites are currently active candidates for designation as new marine sanctuaries: Flower Garden Banks in the Gulf of Mexico; three areas off California (the waters near the northern Santa Barbara Channel Islands, waters near Monterey Bay, and waters off Point Reyes/Farallon Island); Looe Key Coral Reef off Florida; waters southeast of St. Thomas, Virgin Islands; and Gray's Reef off Georgia.

NOAA's evaluation of these sites over the past year has included preparing issue papers and draft environmental impact statements, holding formal and informal public meetings, personal and written consultations with agencies and interest groups, public hearings, and interagency consultations and negotiations. NOAA expects to designate from four to seven of these active candidate sites in fiscal year 1980.

A draft environmental impact statement (DEIS) prepared on the proposed Flower Garden Banks sanctuary was issued in April, 1979 and NOAA conducted public hearings in Lake Charles, Louisiana and Galveston, Tex., on May 17 and 18, 1979. The comment period on the draft closed on August 10, 1979, and NOAA is now responding to the comments received and preparing a final EIS to be released by early summer 1980.

The three California sites are being evaluated separately. In December, 1978 NOAA distributed an issue paper on the three sites presenting several boundary and regulatory options for each proposal. In

June, 1979, NOAA held informal public meetings in Santa Barbara and Ventura, California to discuss preliminary drafts of certain chapters of the DEIS on the Northern Channel Islands site. The DEIS for the proposed Channel Islands Marine Sanctuary was distributed in November, 1979 and public hearings were held in Ventura and Santa Barbara, California in January, 1980. On the Point Reyes/Farallon Island site, NOAA held public meetings in early November, 1979 to discuss preliminary drafts of certain chapters of the DEIS, which was distributed for full public review in March, 1980. The DEIS on the Monterey site is expected to be available in late summer 1980.

Following the public workshop on the Looe Key, Fla., site in January, 1978, NOAA received a request from the South Atlantic and Gulf Regional Fishery Management Councils to delay further steps until the Council's coral reef study was completed in mid-1979. Upon later recommendations of the Councils, NOAA resumed its evaluation of Looe Key as a marine sanctuary candidate. NOAA is now preparing a DEIS on the site, and it is scheduled for distribution in April, 1980.

In June, 1979, the Virgin Islands Department of Conservation and Cultural Affairs recommended an area of approximately 12 square miles within territorial waters off southeastern St. Thomas island for sanctuary designation. NOAA distributed an issue paper in July, 1979 and held a public workshop in August. The DEIS on the site is expected to be released in May, 1980.

In June, 1978, the Georgia Department of Natural Resources recommended an area of approximately 12 square miles at Gray's Reef off the coast of Georgia. NOAA began its consultation process in July, 1979 and declared the site an active candidate in early October. An issue paper was distributed in late October and public workshops were conducted in Brunswick and Savannah, Ga., in late November, 1979. The DEIS on the site is expected to be released in April, 1980.

In addition to work on the sites which are currently active candidates between May and October, 1979, NOAA evaluated a possible marine sanctuary on Georges Bank off New England. After a full review of the nominated site as an active candidate based on the criteria in its regulations, NOAA determined not to proceed with designation of this specific site.

NOAA also began preliminary work to select and evaluate sites for designation in FY 1981 and has informed the Committee that it expects to designate three to four sites in FY 1981.

In addition to considering proposals for designation of new marine sanctuaries, NOAA has managed the two existing marine sanctuaries. For Key Largo Coral Reef Marine Sanctuary, NOAA has completed a management plan describing the resources found in the sanctuary and outlining a five-year program of protection and management. In accordance with the plan, NOAA sponsored a major survey of the sanctuary's deepwater resources and issued contracts for a geological baseline assessment, a biological baseline and reef health assessment, and a water quality inventory of the sanctuary. In addition, arrangements have been made to assure monitoring of environmental conditions within the sanctuary on a regular basis.

NOAA and the North Carolina Department of Cultural Resources have completed a management plan for the Monitor Marine Sanctu-

ary to guide research at the site and to provide a framework for decisionmaking with respect to the future of the wreck. A major scientific expedition jointly sponsored by NOAA, the Harbor Branch Foundation, Inc., and the State of North Carolina obtained extensive photographic and video tape records of the USS *Monitor* and recovered over one hundred artifacts from the vessel.

Funds will be required to provide for assessment of possible marine sanctuary sites and for management of the sanctuaries which have already been designated. For the purposes of the marine sanctuaries program, H.R. 6616 would authorize appropriation of \$2.25 million for fiscal year 1981.

H.R. 6616 would amend Title III of the Act to correct certain problems in the current law which regulates the process by which marine sanctuaries are designated. Under existing law, once the Secretary of Commerce nominates a marine sanctuary, comments are solicited from appropriate Federal agencies. Upon consideration of these comments, the President may grant final approval for the actual designation of the sanctuary. In addition, if the sanctuary's boundaries compass waters under State jurisdiction, then the Governor of affected State is given the authority to exclude from the sanctuary the area within his State's jurisdiction.

H.R. 6616 would provide for the President, other Federal agencies, Governors of affected States, and private individuals, prior to official designation, specific indication of the purposes of a marine sanctuary and a list of the activities which will be regulated within the marine sanctuary. A Governor would have an opportunity to disapprove any item on the list of activities proposed to be regulated within the waters of his State but this disapproval would not affect a designation, or list of activities to be regulated, beyond State waters. The Congress could disapprove, by concurrent resolution passed within 60 days of continuous session of notification of the designation part or all of the designation of a marine sanctuary.

Under H.R. 6616, once a marine sanctuary designation become effective, the Secretary of Commerce could issue regulations modifying or halting activities permitted under other Federal regulation only if such activities are on the list of activities to be regulated in that sanctuary.

In addition, H.R. 6616 would require the Secretary of Commerce to conduct necessary research to carry out the purposes of the marine sanctuaries program, and would require the Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating to conduct necessary enforcement activities. Finally, the Secretary of Commerce, after consultation with the Secretary of the Department in which the Coast Guard is operating, would have authority under the bill to utilize personnel, services, and facilities of other Federal or State agencies for the purposes of the marine sanctuaries program. The latter provision would permit cooperation on the part of the States in assisting the Secretary of Commerce in carrying management responsibilities for marine sanctuaries.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill amends section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (MPRSA) to authorize appro

provision of not to exceed \$3.039 million for fiscal year 1981. The authorization figures in this section are for activities under Title I of the Act, which relates primarily to administration of regulations by the Environmental Protection Agency.

Section 2 amends section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972, to transfer from the National Oceanic and Atmospheric Administration (NOAA) to the Administrator of EPA the responsibility for conducting research on alternatives to ocean dumping. This section does not affect in any way the December 31, 1981 termination date for dumping of sewage sludge established in section 4 of Public Law 95-153, or the similar termination date for ocean dumping of industrial waste established by an amendment to that section in the bill.

Section 3 of the bill amends section 204 of the MPRSA to authorize appropriation of not to exceed \$10.396 million for fiscal year 1981, not to exceed \$12 million for fiscal year 1982, and not to exceed \$13 million for fiscal year 1983 for research authorized under Title II of the Act. The research is conducted primarily by NOAA. The authorization of \$10.396 million for fiscal year 1981 includes \$1 million for research described in the Background and Needs section of this report.

Section 4 of the bill adds a new sentence at the end of section 301 of the MPRSA. The new sentence defines the term "State", when used in Title III, to mean any of the several states or any territory or possession of the United States which has a popularly elected Governor. The substantive effect of the new definition is to grant to elected Governors of territories or possessions, such as the Virgin Islands or Puerto Rico, the same consultation and disapproval rights granted to Governors of States in the marine sanctuary designation process.

Section 5 of the bill amends section 302 of the MPRSA, which sets forth the procedures for designation of marine sanctuaries and for regulation of activities within them. Subsection (f) is amended to specify the terms of a marine sanctuary designation (which must be included in the document designating the sanctuary) shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological, or esthetic value; and the type of activities that will be subject to regulation by the Secretary of Commerce in order to protect those characteristics. The amendment provides that the terms of the designation may be modified only by the same procedures through which an original designation is made. The amendment to subsection (f) requires the Secretary, in consultation with other interested Federal and State agencies, to promulgate necessary and reasonable regulations to implement the terms of the designation to control the activities described in the designation, and provides that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such marine sanctuary regulations otherwise provide. This provision replaces the statement in current law that no permit, license, or other authorization is valid unless the Secretary certifies that the activity is consistent with the purposes of Title III and can be carried out within the regulations promulgated under this section. The amendment expressly restricts the scope of marine sanctuary regulations to those types of activities specifically mentioned in the designation document, while current law does not.

The Committee intends that the Secretary, in exercising authority under Title III, shall avoid duplicative regulatory authority and additional layers of bureaucracy where existing law and regulations provide sufficient protection. The amendment provides for specification before a sanctuary is created of the extent of control which will be exercised within it. While current law requires the Secretary to assume authority for total management of marine sanctuaries, the amendment provides for more sophisticated techniques, including multiple-use management, dominant-use management, and partial management. Under the amendment, the degree of management to be used to protect the values for which a marine sanctuary is created would be specified and discussed before the sanctuary is created. While a few cases may exist in which near-total management is necessary to protect the values for which a marine sanctuary is created, the Committee believes that in most cases some form of multiple-use or dominant-use management will be sufficient to protect the resources involved.

The amendment to subsection (f) further requires the Secretary to conduct such research as is necessary and reasonable to carry out the purposes of Title III, and requires the Secretary and the Secretary of the Department in which the Coast Guard is operating to conduct such enforcement activities as are necessary and reasonable to carry out the purposes of Title III. The Secretary is required, whenever appropriate and in consultation with the Secretary of the Department in which the Coast Guard is operating, to utilize by agreement personnel, services, and facilities of other Federal departments, agencies and instrumentalities or State agencies or instrumentalities, whether on a reimbursable or nonreimbursable basis, in carrying out responsibilities under Title III. This authority is intended to apply to management of marine sanctuaries and other activities, in addition to enforcement of marine sanctuary regulations.

Subsection 302(b) of the Act is amended by section 5 of the bill to provide that a designation of a marine sanctuary shall become effective unless part or all of its terms are disapproved by a concurrent resolution adopted by both Houses of Congress in accordance with a new subsection (h), or the Governor of a State whose waters are included in the designated marine sanctuary certifies (within a 60-day period after publication of the designation) that the designation or specific terms of it are unacceptable to his State. If a Governor of an affected State so certifies, the terms specified in his certification of unacceptability will not be effective in the waters of his State until the certificate is withdrawn, but will remain in effect in waters not within the jurisdiction of that State. If the Secretary does not withdraw the designation after disapproval or modification by a Governor or the Congress, only those portions of the designation not certified as unacceptable or disapproved will take effect.

Section 5 also adds a new subsection (h) to section 302, specifying the procedures for consideration of a congressional resolution of disapproval. The new subsection (h) provides that the Secretary shall transmit formally to the Congress a marine sanctuary designation at the time of its publication in the Federal Register, and specifies the form of concurrent resolution which may be used to disapprove the designation or some of its terms. Such a concurrent resolution

to be effective must be adopted by both Houses of Congress before the end of the first period of 60 calendar days of continuous session of Congress after the date on which the designation is officially transmitted. The amendment further specifies that continuity of session of Congress is broken only by an adjournment sine die, and that the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period. The amendment further provides that a designation which becomes effective, or that portion of the designation which takes effect, shall be printed in the Federal Register. The amendment does not amend the rules of the House or the Senate. Consequently, such a concurrent resolution would be referred to committee and considered by that committee under regular committee procedures. The Committee expects that in the House such resolutions would be referred to the Committee on Merchant Marine and Fisheries.

Section 6 of the bill amends section 304 of the MPRSA to authorize appropriation of not to exceed \$2.25 million for the fiscal year 1981 for the marine sanctuary program authorized by Title III of the Act.

Section 7 of the bill amends section 4 of Public Law 95-153 to add industrial waste to sewage sludge in the provision requiring termination of ocean dumping activities by December 31, 1981; to authorize issuance of limited permits for research involving the dumping of industrial waste after the 1981 deadline; and to authorize limited use of emergency permits for ocean dumping of industrial waste after the December 31, 1981 deadline in public health emergencies. Industrial waste is defined as any solid, semi-solid, or liquid waste, generated by a manufacturing or processing plant, the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The December 31, 1981 deadline for cessation of ocean dumping under this Act does not apply to those dispositions of effluents from outfall structures which are exempted from the definition of "dumping" in section 3(f) of the Act.

After the December 31, 1981 deadline the Administrator of EPA may issue research permits for ocean dumping of industrial waste if he determines the proposed dumping is necessary to conduct research on new technology related to ocean dumping or to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities; that the scale of the proposed dumping is such that the dumping will have minimal adverse impact on the human health, welfare and amenities, and the marine environment, ecological systems and economic potentialities; and, after consultation with the Secretary of Commerce, that potential benefits of such research will outweigh any such adverse impact. The amendment further provides research permits issued shall be subject to such conditions and restrictions as the Administrator of the EPA determines to be necessary to minimize any possible adverse impact of such dumping, and that no research permit issued under this subsection may have an effective period of more than six months. The intention of the Committee in authorizing EPA to issue research permits is that they be used sparingly, and only when the research is necessary to further the

purposes of the Act. Ocean dumping under such research permits may include only industrial waste, not sewage sludge or other materials. The determination that the proposed dumping will have minimal adverse impact should be based on scientific analysis (including laboratory experiments), and any research permit issued should contain strict restrictions on the amount, time and location of dumping. In addition, the Committee intends that such research permits provide for continuous monitoring by the EPA, which should retain the right to suspend such a permit at any time should adverse impacts be observed.

After the December 31, 1981 deadline the Administrator of EPA may issue emergency permits for the ocean dumping of industrial waste if the Administrator determines that there has been demonstrated to exist an emergency requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. The language of this section of the bill is similar to language which has been contained in EPA regulations for approximately 7 years, during which time the EPA has issued 5 such emergency permits. One permit was issued for emergency dumping of corroded chlorine cylinders which could not be opened without serious danger of explosion, and the other four permits were issued for vessels breaking up near shore with cargoes of oil or pesticide, or other serious danger of explosion because of overheating of a cargo of oil-covered mill tailings. The bill defines "emergency" as a situation requiring action with a marked degree of urgency. This definition is narrower than that now contained in EPA's regulations, and the Committee therefore expects EPA to be even more reluctant to issue these emergency ocean dumping permits for industrial waste than it has been in the past. The Committee expects that in deciding whether or not to issue such an emergency permit, the Administrator of EPA will decide to issue a permit only if dumping appears to be the only way of averting the public health emergency and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. The Committee expects to be notified promptly after issuance of an emergency permit. This emergency permit authority provided by the bill applies only to industrial waste as defined in section 4(d)(2) of Public Law 95-153 (33 U.S.C. 1412a(d)(2)); this emergency permit authority does not apply to sewage sludge, radioactive waste, or radiological, chemical, or bacteriological warfare agents.

Section 8 of the bill amends section 102(e) of the MPRSA to allow a federal agency which desires to ocean dump material at a location in a foreign country which is party to the International Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter to apply, after obtaining the concurrence of the Administrator of the EPA, directly to that foreign country for an ocean dumping permit.

Section 9 of the bill amends section 3(b) of the MPRSA, which defines "ocean waters", but adding a new sentence providing that the purposes of Title I of the Act the waters of Long Island Sound shall be considered to be ocean waters.

COST OF THE LEGISLATION

Pursuant to clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee estimates the maximum cost of the activities under each Title of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, conducted pursuant to the authorizations in this legislation will be as follows:

<i>Budget authority</i>	
Fiscal year 1981 :	
Title I.....	\$3,039,000
Title II.....	10,396,000
Title III.....	2,250,000
Fiscal year 1982 : Title II.....	12,000,000
Fiscal year 1983 : Title II.....	13,000,000

For purposes of estimating outlays, the Committee adopts the estimates made by the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause (2) (1) (4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 6616 would have no significant inflationary impact upon prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirements of clause 2(1) (3) (A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations on the subject of H.R. 6616 have been made by the Committee during the 96th Congress. No formal findings or recommendations were made by the Committee as a result of the several days of oversight hearings held during the 95th Congress. The Committee received progress reports on implementation of the Marine Protection, Research, and Sanctuaries Act during its hearings on H.R. 6616 and during oversight hearings held on June 27, 1979 and March 14, 1980, and plans to conduct further oversight activities during 1980.

2. With respect to the requirements of clause 2(1) (3) (D) of Rule XI of the Rules of the House of Representatives, the Committee has received no report from the Committee on Government Operations on the subject of H.R. 6616.

3. With respect to the requirements of clause 2(1) (3) (B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 6616 does not contain any new budget authority or tax expenditures.

4. With respect to the requirements of clause (2) (1) (3) (C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following estimate of the cost of H.R. 6616 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 26, 1980.

HON. JOHN M. MURPHY,
*Chairman, Committee on Merchant Marine and Fisheries, U.S. House
of Representatives, 1334 Longworth House Office Building,
Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6616, a bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1981, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 6616.
2. Bill title: A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1981, and for other purposes.
3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, March 19, 1980.
4. Bill purpose: The bill authorizes funds for programs to protect the ocean environment. It authorizes appropriations for the Environmental Protection Agency (EPA) to issue permits for ocean dumping and for the National Oceanic and Atmospheric Administration (NOAA) to carry out research on marine pollution, to monitor ocean dumping sites and to establish marine sanctuaries.

For the EPA permit program, \$1.5 million was appropriated for fiscal year 1979 and \$1.3 million for 1980; \$1.0 million was requested for this program in the 1981 budget, and \$3.0 million is authorized by this bill. NOAA received an appropriation of \$5.1 million for fiscal year 1979 and \$9.4 million for 1980 for marine pollution research and monitoring; the President has requested \$9.5 million for these activities for fiscal year 1981, while this bill authorizes \$10.4 million for fiscal year 1981, \$12 million for 1982, and \$13 million for 1983. The marine sanctuaries program received an appropriation of \$0.5 million for fiscal year 1979 and \$1.8 million for fiscal year 1980; the 1981 request for this program is \$2.3 million, the same amount authorized by this bill.

5. Cost estimate:

Authorization level:

Fiscal year:	Millions
1981 -----	\$15.7
1982 -----	12.0
1983 -----	18.0
1984 -----	---
1985 -----	---

Estimated outlays:

Fiscal year:	Millions
1981 -----	11.9
1982 -----	12.8
1983 -----	12.8
1984 -----	3.2
1985 -----	-----

The costs of this bill fall within budget function 300.

6. Basis of estimate: For the purpose of this estimate, it is assumed that all funds authorized will be appropriated prior to the beginning of each fiscal year. The funds authorized for EPA to issue and monitor ocean dumping permits are expected to be used primarily for salaries and administration and to be spent out at about 90 percent the first year and 10 percent the second. The NOAA pollution research and monitoring funds are expected to be spent at a rate of 75 percent in the first year and 25 percent in the second. (This is based on the expectation that about 30 percent of the authorization is for salaries and will be spent out at 90 percent in the first year, while the rest is for studies and will be spent out at a somewhat slower rate.) The funds authorized for the marine sanctuaries program are expected to be spent at a rate of 60 percent in the first year and the remainder in the second.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Debbie Goldberg.

10. Estimate approved by:

ROBERT A. SUNSHINE,

(For James L. Blum, Assistant Director for Budget Analysis).

DEPARTMENTAL REPORT

H.R. 6616 was the subject of Executive Communication 3716 from the Administrator of the Environmental Protection Agency, which follows herewith:

[EXECUTIVE COMMUNICATION #3716]

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., March 3, 1980.

HON. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is our proposed bill to extend Title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for two years, and for other purposes.

Section 1 of the bill extends our authorities under section 111 of the Act through fiscal year 1982. These authorities expired on September 30, 1978. Section 2 of the bill eliminates the dual permitting requirements under existing law for agencies or instrumentalities of the United States seeking to ocean dump, in non-U.S. waters, material originating in a foreign State Party to the Ocean Dumping Convention which issues a permit in accordance with Convention requirements.

The extension of appropriation authorities under section 1 will enable the Environmental Protection Agency to continue the programs envisioned by Title I of the Act. These programs include identification and designation of suitable ocean dumping sites, issuance of permits for ocean dumping, and establishment and implementation of plans to phase out the dumping of sewage sludge in ocean waters.

Our request for appropriation authorizations for fiscal year 1981 activities under Title I of the Marine Protection, Research, and Sanctuaries Act is \$1,039,000. This is the amount requested in the President's 1981 Budget for these activities.

Section 2 of the bill eliminates the present requirement that an agency of the United States government obtain a permit both from the foreign State in which the material to be ocean dumped originates, as well as from the U.S. Environmental Protection Agency. This will relieve the United States of administrative burdens associated with both the filing for and the issuance of permits, as well as the designation of dumping sites in distant locations. Since the Ocean Dumping Convention establishes a uniform system of regulation consistent with United States requirements, permitting a foreign State Party to the Convention to regulate ocean dumping of materials originating in that State will, we believe, conform to the goals of the Act. As an additional safeguard, a provision is included in the proposal requiring agencies of the U.S. to obtain the concurrence of the Administrator prior to filing an application for a permit with a foreign State.

We recommend that this bill be referred to the appropriate Committee for consideration and that it be enacted.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

DOUGLAS M. COSTLE.

Enclosure.

A BILL To extend Title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for two years and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. Section 111 of the Marine Protection, Research, and Sanctuaries Act, as amended (33 U.S.C. 1420), is amended by striking "and" following "1977," and inserting "not to exceed \$1,039,000 for fiscal year 1981, and such sums as may be necessary for fiscal year 1982," immediately after "1978,".

SEC. 2. Section 102(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412 (e)) is amended:

(1) by inserting after "transportation of material," the words "by an agency or instrumentality of the United States or", and

(2) by striking out "section." and inserting "section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made

for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.”

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972, AS AMENDED

(33 U.S.C. 1402-44; 16 U.S.C. 1431-4; Public Law 95-153)

* * * * *

SEC. 111. There are hereby authorized to be appropriated not to exceed \$3,600,000 for fiscal year 1973, not to exceed \$5,500,000 for each of the fiscal years 1974 and 1975, not to exceed \$5,300,000 for fiscal year 1976, not to exceed \$1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed \$4,800,000 for fiscal year 1977, [and] not to exceed \$4,800,000 for fiscal year 1978, and not to exceed \$3,039,000 for fiscal year 1981, for the purposes and administration of this subchapter, and for succeeding fiscal years only such sums as the Congress may authorize by law.

* * * * *

[SEC. 203. The Secretary of Commerce shall conduct and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the conduct of, and to promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of determining means of minimizing or ending all dumping of materials within five years of the effective date of this Act.]

SEC. 203. (a) *The Administrator of the Environmental Protection Agency shall—*

(1) *conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—*

(A) *determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters, or waters described in section 101(b), of material which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities, and*

(B) *developing disposal methods as alternatives to the dumping described in subparagraph (A); and*

(2) *encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public author-*

ities, agencies, and institutions (whether Federal, State, interstate or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95-153; 33 U.S.C. 1412a), for the ocean dumping of sewage sludge.

Sec. 204. There are authorized to be appropriated for the first fiscal year after October 23, 1972, and for the next two fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any such fiscal year may not exceed \$6,000,000. There are authorized to be appropriated not to exceed \$1,500,000 for the transition period (July 1 through September 30, 1976), not to exceed \$5,600,000 for fiscal year 1977, [and] not to exceed \$6,500,000 for [fiscal year 1978.] *fiscal year 1978, not to exceed \$10,396,000 for fiscal year 1981, not to exceed \$12,000,000 for fiscal year 1982, and not to exceed \$13,000,000 for fiscal year 1983.*

TITLE III—MARINE SANCTUARIES

Sec. 301. Notwithstanding the provisions of subsection (h) of section 3 of this Act, the term "Secretary", when used in this title, means Secretary of Commerce. *The term "State", when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.*

Sec. 302. (a) The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(b) (1) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal state, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat 29), the Secretary shall consult with, and give due consideration to the views of, the responsible officials of the State involved. [As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the exploration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.]

(2) *A designation under this section shall become effective unless—*

(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f) (1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f) (1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings on the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

[(f) After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section.]

(f) (1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological, or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

(2) *The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.*

(3) *The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.*

(4) *The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title.*

(g) *The regulations issued pursuant to subsection (f) shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States.*

(h) (1) *For purposes of subsection (b) (2) (B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b) (2) (B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: "That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered transmitted to Congress by the Secretary of Commerce on ", the first blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase "the entire designation" if the entire designation is disapproved).*

(2) *For the purpose of paragraph (1) of this subsection—*

(A) *continuity of session is broken only by an adjournment of Congress sine die; and*

(B) *the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty day period.*

(3) *A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.*

SEC. 304. There are authorized to be appropriated not to exceed \$10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed \$6,200,000 for fiscal year 1976, not to exceed \$1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed \$500,000 for fiscal year 1977, [and] not to exceed \$500,000 for fiscal year 1978, and not to exceed \$2,250,000 for fiscal year 1981 to carry out the provisions of this title, including the acquisition, development, and operation of marine sanctuaries designated under this title.

PUBLIC LAW 95-153

(33 U.S.C. 1412a)

AN ACT To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended—

(1) by striking out “and” immediately after “September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977,” the following: “and not to exceed \$4,800,000 for fiscal year 1978,”.

SEC. 2. Section 204 of such Act (33 U.S.C. 1444) is amended—

(1) by striking out “and” immediately after September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977” the following: “, and not to exceed \$6,500,000 for fiscal year 1978”.

SEC. 3. Section 304 of such Act (16 U.S.C. 1434) is amended—

(1) by striking out “and” immediately after “September 30, 1976,”; and

(2) by adding immediately after “fiscal year 1977” the following: “, and not to exceed \$500,000 for fiscal year 1978”.

SEC. 4. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the “Administrator”) shall end the dumping of sewage sludge and industrial waste into ocean waters, or into waters described in section 101 (b) of [Public Law 92-532.] *the Marine Protection, Research, and Sanctuaries Act of 1972*, as soon as possible after the date of enactment of this section, but, *except as provided in subsections (b) and (c)*, in no case may the Administrator issue any permit, or any renewal thereof (under title I of [the Marine Protection, Research, and Sanctuaries] *such Act of 1972*) which authorizes any such dumping after December 31, 1981.

[(b) For purposes of this section, the term “sewage sludge” means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, amenities, or the marine environment, ecological systems, or economic potentialities.]

(b) *After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101 (b), if the Administrator determines—*

(1) that the proposed dumping is necessary to conduct research—

(A) on new technology related to ocean dumping, or

(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

(c) After December 31, 1981, the Administrator may issue emergency permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, 'emergency' refers to situations requiring action with a marked degree of urgency.

(d) For purposes of this section—

(1) The term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities; and

(2) the term "industrial waste" means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(33 U.S.C. 1412)

SEC. 102. * * *

(e) In the case of transportation of material, by an agency or instrumentality of the United States or by a vessel or aircraft registered in the United States or flying the United States flag, from a location in a foreign State Party to the Convention, a permit issued pursuant to the authority of that foreign State Party, in accordance with Convention requirements, and which otherwise could have been issued pursuant to subsection (a) hereof, shall be accepted, for the purposes of this title, as if it were issued by the Administrator under the authority of this [section.] section: *Provided, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to*

the Convention unless the Administrator concurs in the filing of such application.

* * * * *

(33 U.S.C. 1402)

SEC. 1402. Definitions

* * * * *

(b) "Ocean waters" means those waters of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639). *Notwithstanding any other provision of law, the waters of Long Island Sound shall be considered "ocean waters" for the purpose of title I of this Act.*

* * * * *

